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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the matter of)
)
Closed Captioning and Video) MM Docket No. 95-176
Description of Video Programming)

To: The Commission

REPLY TO PROPOSED RULE

The Recording Industry Association of America ("RIAA"), a trade association representing record companies who create, market and distribute over 90% of all legitimate sound recordings and music videos produced in the United States, hereby responds to a "Notice of Proposed Rule" in the above captioned proceeding.

I. Introduction:

As we have stated in our comments to the "Notice of Inquiry" on March 15th, 1996, the RIAA supports the goal of making video programming more accessible to Americans with hearing disabilities.

Beginning in 1989, our members have voluntarily undertaken

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the closed captioning of music videos and continue to closed caption the majority of music videos they release. As we have stated in our comments to the Commission's Notice of Inquiry, the Captioning Center, a non-profit service of the WGBH Educational Foundation, has been actively involved in the closed captioning of hundreds of music videos. As of 1996, the Center estimates that a total of 750 music videos have received closed captioning during the previous year.¹

II. A General Exemption Should Apply for Music Videos:

However, while substantial closed captioning is being undertaken, we respectfully reassert our request to exempt this medium from mandatory closed captioning requirements based on a general exemption which recognizes the unique attributes of music video and the interplay of music and lyrics.

Mandating closed captioning for music video fits a round peg into a square hole. There can be no debate that dialogue, commentary or some verbal component is central to most every form of video programming. However, of all the forms the commission

¹See RIAA "Reply to Notice of Inquiry", filed March 15, 1996.

cites in contemplating a general exemption, including "foreign language programming; programs which are primarily textual; cable access programs; instructional programs; advertising; home shopping; interstitial and promotional advertisements; political advertising; noncommercial broadcasters' fund raising; music programs; weather programs and sports programs".² Only music programming, and music videos in particular, depart by definition from a central narrative or dialogue. As we have stated in our previous comments to the Commission, lyrics often are subordinate to the actual music. In some cases lyrics may be unintelligible, or non-literal. These are some of the kinds of factors which go into decisions as to whether a particular recording comes with a lyric sheet, or whether a particular music video is captioned. And for these reasons, closed captioning is not necessarily appropriate, or even possible on some videos.³

III. Economic Burden:

²Id.

³Some lyrics are unintelligible. We direct the Commissions' attention to the 1963 Congressional investigation of alleged objectional lyrics contained in the song "Louie, Louie" by the Kingsmen. After holding a hearing, and having the recording played on various speeds and analyzed by the Federal Bureau of Investigation, the Committee concluded the lyrics were "indecipherable at any speed", M. Greil, "Mystery Train", New York, E.P. Dutton, p. 181 (1980).

A mandatory requirement that all music video receive closed captioning will not only effect the major labels and their affiliates, but such a requirement will also impact small, independent labels. Even the rather modest costs associated with closed captioning a short form video⁴ could impose a detrimental burden on a small label. RIAA hereby incorporates the comments of the National Association of Independent Record Distributors & Manufacturers ("NAIRD") as "Appendix A". While exempting music video based on economic burden would not be appropriate for the vast majority of our member companies, an economic burden will be felt by the small, independent labels which NAIRD represents.

However, assessing whether an economic burden exemption should apply could be a difficult and time consuming task as the Commission may be required to determine the individual economic circumstances of each record label producing a music video. A more practical way to accommodate independent labels and at the same time recognize the vast number of videos already being closed captioned (where such captioning is appropriate) would be to exempt music video under the general exemption. This approach allows small labels to determine for themselves whether

⁴See RIAA "Reply to Notice of Inquiry", filed March 15, 1996.

captioning is appropriate and economically feasible for their companies.

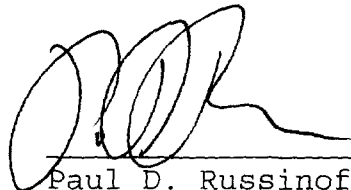
IV. Conclusion:

RIAA urges the Commission to exempt the music video medium from closed caption requirements under a general exemption based on the unique nature of music videos, the vast number of videos already being closed captioned and the economic concerns facing small, independent labels.

Respectfully submitted,

RECORDING INDUSTRY ASSOCIATION
OF AMERICA, INC.

1330 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 775-0101

A handwritten signature in black ink, appearing to be 'PR', written over a horizontal line.

Paul D. Russinoff
Associate General Counsel

February 28, 1997

APPENDIX A



NATIONAL ASSOCIATION OF INDEPENDENT RECORD DISTRIBUTORS & MANUFACTURERS

P.O. BOX 988 147 EAST MAIN STREET, SUITE #2

WHITESBURG, KY 41858

(606) 633-0946 fax(606) 633-1160

February 27, 1997

**Federal Communications Commission
Washington, D.C. 20554**

**Re: Closed Captioning and Video Description of Video Programming
MM Docket No. 95-176**

To Whom It May Concern:

The above captioned proceeding has been brought to the attention of NAIRD. NAIRD (National Association of Independent Record Distributors & Manufacturers) is a trade association representing over 1300 companies from various aspects of the independent music industry including independent record companies who create, market and distribute sound recordings and music videos produced in the United States. On behalf of our membership, NAIRD appreciates the opportunity to respond to the above captioned proceeding.

NAIRD supports the goal of making video programming more accessible to Americans with hearing disabilities. However, efforts to do so have been undertaken voluntarily and at the expense of individual record companies. NAIRD urges the Commission to take into consideration the fact that closed captioning is not appropriate for all music videos. Moving to make closed captioning mandatory for all music videos would certainly create unnecessary expenses for several members of NAIRD, most of which are companies operating with very limited budgets, and could very well prevent many of these videos from being released. This form of exposing art is very important, thus it would be a shame to deprive the public from seeing a video and being exposed to this art by adding this mandated expense.

While NAIRD and our member companies support the continuing efforts to voluntarily close caption music videos, we respectfully request that the Commission exempt this particular form of programming from mandatory closed captioning or video description requirements.

Respectfully,

A handwritten signature in black ink, appearing to read "Pat Bradley", is written over a horizontal line.

**Mrs. Pat Martin Bradley
Executive Director**